IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 873 of 2002

Madhukar Kisan Kudale ..Appellant

V/s

Solapur Municipal Corporation..Respondent

Shri Jaydeep Deo i/b P.K.Dhakephalkar for Appellant

Shri V.B.Naik for Respondent

CORAM:S.R.SATHE,J.

DATED:22nd June 2005

P.C.:-

. Heard the learned Advocates for the parties.

2. Perused the judgments of both the courts below. The suit for injunction filed by the present Appellant was dismissed and thereafter the said order was confirmed by the first appellate Court.

3. The only point that has been urged before me is that the appellant plaintiff is a tenant of Respondent - Municipal Corporation and accordingly the Corporation had in fact issued first receipt in the name of plaintiff. However, admittedly, thereafter for a long

period of about 9 years the rent has not been recovered from the plaintiff-appellant but amount is collected by way of penalty. There is nothing on record to indicate that the plaintiff-appellant was in occupation of the suit shop as a tenant. Moreover, there is nothing to show that the defendant-Corporation was acting high handedly or that without following due process of law they tried to demolish the suit structure. Under the circumstances the finding recorded by both the courts below appears to be legal and correct. There is no substantial question of law involved.

4. Hence the appeal is dismissed in limine.

(S.R.SATHE,J.)